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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/741,499	12/19/2000	Stephen L. Phelps	KCX-410 (14779)	5722

7590

01/29/2003

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EXAMINER

GOODMAN, CHARLES

ART UNIT

PAPER NUMBER

3724

DATE MAILED: 01/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/741,499

Applicant(s)

PHELPS ET AL.

Examiner

Charles Goodman

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 November 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 December 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

1. The Amendment filed on November 6, 2002 has been entered.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: "68" (p. 7, l. 9). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.
3. It is noted that Applicant has stated that a drawing correction had been submitted with the above mentioned Amendment. However, the application lacks this document.

Specification

4. The disclosure is objected to because of the following informalities:
 - i. P. 9, l. 19, the phrase "cutting blade 44" is not clearly understood. In l. 13, reference "50" has been used to designate a "knife or blade". Thus, which is which?

Appropriate correction is required.

Claim Rejections - 35 USC § 102

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 1-5, 10-13, and 16-18 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Shelley '331. See whole patent.

Claim Rejections - 35 USC § 103

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 6-9, 14, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shelley '331 in view of Hawkins.

Shelley '331 discloses the invention substantially as claimed except for a plurality of cutting blades equally circumferentially spaced around the cutting mechanism roll. However, Hawkins teaches a dispenser comprising a rotatable drum (e.g. 17b, 17b) and a cutting mechanism (e.g. at 12b in Fig. 4) wherein the cutting mechanism comprises a roll (12b) having a plurality of cutting blades (20) equally circumferentially spaced around the cutting mechanism roll for the purpose of providing more cuts on the web (T) to be cut per single rotation of the cutting mechanism roll with the cutting action

being facilitated by the engagement of a lever arm (36) with one of the plurality of circumferentially spaced cam members (43) disposed between adjacent cutting blades. Fig. 4; c. 2, l. 40 - c. 3, l. 38, c. 4, ll. 17-64. Thus, it would have been obvious to the ordinary artisan at the time of the instant invention to provide the device of Shelley '331 with the plurality of equally circumferentially spaced cutting blades as taught by Hawkins in order to provide the cutting mechanism of Shelley '331 with the ability to make more cuts per single rotation of the cutting mechanism roll.

Response to Arguments

10. Applicant's arguments filed November 6, 2002 have been fully considered but they are not persuasive.

In response to Applicant's basic argument that Shelley '331 does not anticipate the claimed invention because Shelley '331 allegedly lacks the claimed engagement and disengagement of the cutting mechanism, this argument is traversed. Figs. 3-6 of Shelley '331 clearly shows that Shelly '331's cutting mechanism engages during a portion of the arc of the rotatable drum and disengages and remains stationary during a remainder. A "remainder" is not so limiting as to preclude parts of remaining portions of the arc of rotation.

Conclusion


11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Goodman whose telephone number is (703) 308-0501. The examiner can normally be reached on Monday-Thursday between 7:30 AM to 6:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap, can be reached on (703) 308-1082.

In lieu of mailing, it is encouraged that all formal responses be faxed to 703-872-9302. Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is 703-308-1148.


Charles Goodman
Primary Examiner
AU 3724

cg 
January 27, 2003

CHARLES GOODMAN
PRIMARY EXAMINER